

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 4:08CR551DJS(MLM)
)	
SHANE R. FRANK,)	
)	
Defendant.)	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

This matter is before the court on defendant's Motion to Suppress Statements. [Doc. 18] The government responded. [Doc. 19] An Evidentiary Hearing was held on 11/7/08 at which defendant appeared in person and was represented by Mr. Stephen H. Gilmore. The government was represented by Assistant United States Attorney Jeanette Graviss. At the time of the scheduled hearing, AUSA Graviss stated that the government conceded defendant's Motion as to both statements made by defendant.¹ The government agreed that it would not use the statements made by defendant to Detective Womack or the statements made by defendant to Corrections Officer Ising in its case-in-chief. However, should defendant proceed to trial and elect to take the witness stand in his own defense, the government reserved the right to argue that it should be permitted to utilize those statements for the purposes of cross-examination and/or rebuttal.

¹ The government's written Response states the government conceded the Motion concerning defendant's statements to Corrections Office Ising. At the Hearing, the government further conceded the Motion concerning defendant's statements made to Detective Womack.

Accordingly,

IT IS HEREBY RECOMMENDED that defendant's Motion to Suppress Statements be **DENIED** as moot subject to the government's agreement. [Doc. 18]

The parties are advised that they have eleven (11) days in which to file written objections to this report and recommendation pursuant to 28 U.S.C. §636(b)(1), unless an extension of time for good cause is obtained, and that failure to file timely objections may result in a waiver of the right to appeal questions of fact. See Thompson v. Nix, 897 F.2d 356 (8th Cir. 1990).

/s/Mary Ann L. Medler

MARY ANN L. MEDLER

UNITED STATES MAGISTRATE JUDGE

Dated this 12th day of November, 2008.